IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8567 of 2007(T)

PETITIONER:

M/S.BHARATH SANCHAR NIGAM LIMITED,
OFFICE OF THE CGM, KERALA, THIRUVANANTHAPURAM
REPRESENTED BY ITS CHIEF ACCOUNTS OFFICER(CA)
SRI.S.MADHAVAN NAIR.

BY ADV. SMT.S.K.DEVI

RESPONDENTS:

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1. **THE ASST.COMMISSIONER (AUDIT ASSMT.)**
   DEPARTMENT OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM.

2. **THE DEPUTY COMMISSIONER (APPEALS)**
   DEPARTMENT OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM.

3. **THE INSPECTING ASST.COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.8567/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.320101667575/05-06/D.C. (AA)T/C T DT.14.11.06 OF THE 1ST RESPONDENT.

EXT.P2:- COPY OF THE ORDER NO.320101667575/06-07/D.C. (AA) T/C DT.14.11.06 OF THE 1ST RESPONDENT.

EXT.P3:- COPY OF THE APPEAL AND GROUNDS AGAINST EXT.P1 DT.26.12.06 FIOLED BEFORE THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE APPEAL AGAINST EXT.P2 DT.26.12.06 FILED BEFORE THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE R.R. NOTICE DT.15.2.07 ISSUED BY THE 3RD RESPONDENT.

EXT.P6:- COPY OF THE STAY ORD NO.KVATA 116/06 120/06 DT.1.3.07 ISSUED BY THE 2ND RESPONDENT.

EXT.P7:- COPY OF THE JUDGMENT IN WP(C) NO.18032 OF 2006 DT.11.7.06.

EXT.P8:- COPY OF THE ORDER IN APPEAL NO.STA 673/06 DT.16.11.06.

EXT.P9:- COPY OF THE CIRCULAR NO.27/06/CT DT.3.8.06 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES.

/TRUE COPY/

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8567 OF 2007-T

JUDGMENT

The petitioner challenges Ext.P6 interim order, directing it to pay 50% of the disputed tax. The assessment relates to the years 2005-06 and 2006-07. The sale turnover relates to sale of SIM card. The petitioner submits, in view of the decision of the Apex Court and also Ext.P8 decision of the appellate authority, no tax is leviable in relation to SIM cards. So, it prays for grant of absolute stay.

2. I hard the learned Government Pleader for the respondents also. I prima facie feel that there is considerable force in the submission of the petitioner, especially in view of the stand taken by the appellate authority in Ext.P8 order. Accordingly, it is ordered that the disputed tax for the above said years shall not be recovered till the disposal of Exts.P3 and P4 appeals by the appellate authority. The appellate authority shall endeavour to dispose of those appeals expeditiously. The petitioner shall co-operate with the appellate authority without seeking unnecessary adjournments, for the

early disposal of those appeals.

The writ petition is disposed of as above.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/